

ROBERT GUILD

Attorney at Law

314 Pall Mall • Columbia, South Carolina 29201 • 803-252-1419 • bguild@mindspring.com

BY ELECTRONIC FILING AND SERVICE

December 24, 2018

Ms. Jocelyn D. Boyd
Chief Clerk & Administrator
Public Service Commission of South Carolina
101 Executive Center Drive, Suite 100
Columbia, SC 29210

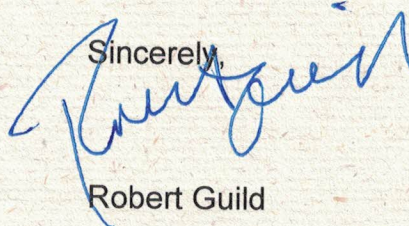
In Re: Friends of the Earth and Sierra Club v. SCE&G, etc.
Docket Nos. 2017-207--E, 2017-305-E and 2017-370-E

Dear Ms. Boyd:

Enclosed please find for filing and consideration in these consolidated dockets the Petition for Rehearing or Reconsideration on behalf of Friends of the Earth and Sierra Club. I certify that I am, this day, filing and serving the parties with these documents electronically.

With kind regards I am

Sincerely,



Robert Guild

Encl.s

CC: All Parties



(Caption of Case)

In Re: Friends of the Earth and Sierra Club v.
SCE&G, etc.

Docket Nos. 2017-207--E, 2017-305-E and 2017-370-E

BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

COVER SHEET

DOCKET

NUMBER: 2017 - 207 - E

(Please type or print)

Submitted by: Robert Guild

SC Bar Number: 2358

Address: 314 Pall Mall Street

Telephone: (803) 917 573

Columbia, SC 29201

Fax:

Other:

Email: bguild@mindspring.com

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for use by the Public Service Commission of South Carolina for the purpose of docketing and must be filled out completely.

DOCKETING INFORMATION (Check all that apply)

☐ Emergency Relief demanded in petition☒ Request for item to be placed on Commission's Agenda expeditiously☐ Other:

INDUSTRY (Check one)	NATURE OF ACTION (Check all that apply)		
<input checked="" type="checkbox"/> Electric	<input type="checkbox"/> Affidavit	<input type="checkbox"/> Letter	<input type="checkbox"/> Request
<input type="checkbox"/> Electric/Gas	<input type="checkbox"/> Agreement	<input type="checkbox"/> Memorandum	<input type="checkbox"/> Request for Certification
<input type="checkbox"/> Electric/Telecommunications	<input type="checkbox"/> Answer	<input type="checkbox"/> Motion	<input type="checkbox"/> Request for Investigation
<input type="checkbox"/> Electric/Water	<input type="checkbox"/> Appellate Review	<input type="checkbox"/> Objection	<input type="checkbox"/> Resale Agreement
<input type="checkbox"/> Electric/Water/Telecom.	<input type="checkbox"/> Application	<input type="checkbox"/> Petition	<input type="checkbox"/> Resale Amendment
<input type="checkbox"/> Electric/Water/Sewer	<input type="checkbox"/> Brief	<input checked="" type="checkbox"/> Petition for Reconsideration	<input type="checkbox"/> Reservation Letter
<input type="checkbox"/> Gas	<input type="checkbox"/> Certificate	<input type="checkbox"/> Petition for Rulemaking	<input type="checkbox"/> Response
<input type="checkbox"/> Railroad	<input type="checkbox"/> Comments	<input type="checkbox"/> Petition for Rule to Show Cause	<input type="checkbox"/> Response to Discovery
<input type="checkbox"/> Sewer	<input type="checkbox"/> Complaint	<input type="checkbox"/> Petition to Intervene	<input type="checkbox"/> Return to Petition
<input type="checkbox"/> Telecommunications	<input type="checkbox"/> Consent Order	<input type="checkbox"/> Petition to Intervene Out of Time	<input type="checkbox"/> Stipulation
<input type="checkbox"/> Transportation	<input type="checkbox"/> Discovery	<input type="checkbox"/> Prefiled Testimony	<input type="checkbox"/> Subpoena
<input type="checkbox"/> Water	<input type="checkbox"/> Exhibit	<input type="checkbox"/> Promotion	<input type="checkbox"/> Tariff
<input type="checkbox"/> Water/Sewer	<input type="checkbox"/> Expedited Consideration	<input type="checkbox"/> Proposed Order	<input type="checkbox"/> Other: _____
<input type="checkbox"/> Administrative Matter	<input type="checkbox"/> Interconnection Agreement	<input type="checkbox"/> Protest	
<input type="checkbox"/> Other: _____	<input type="checkbox"/> Interconnection Amendment	<input type="checkbox"/> Publisher's Affidavit	
	<input type="checkbox"/> Late-Filed Exhibit	<input type="checkbox"/> Report	

Print Form

Reset Form

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NOS. 2017-207-E, 2017-305-E and 2017-370--E

In Re: Friends of the Earth and Sierra Club,)
Complainants/ Petitioners,)
)
v.)
)
South Carolina Electric & Gas Co.,)
Defendant / Respondent.)

In Re: Request of the South Carolina Office)
of Regulatory Staff for Rate Relief to SCE&G)
Rates Pursuant to S.C. Code Ann. § 58-27-)
920)

In Re: Joint Application and Petition of South)
Carolina Electric & Gas Company and)
Dominion Energy, Inc. for review and)
approval of a proposed business combination)
between SCANA Corporation and Dominion)
Energy, Inc., as may be required, and for a)
prudency determination regarding the)
abandonment of the V.C. Summer Units 2)
& 3 Project and associated merger benefits)
and cost recovery plan)

FRIENDS OF THE EARTH AND SIERRA CLUB PETITION FOR
REHEARING OR RECONSIDERATION

Friends of the Earth ("FoE") and Sierra Club, parties to the above-referenced consolidated proceedings, hereby petition the Commission pursuant to S.C. Code Ann. Section 58-27-2150 (1976), Rule 103-854 of the Commission's Rules and such other legal authority, if any, as may require such procedural request, for rehearing or reconsideration of Order No. 2018-804, dated December 21, 2018, Addressing South Carolina Electric & Gas Nuclear Dockets, allowing the recovery from ratepayers of abandoned nuclear project costs, and approving the merger proposed by the Joint Applicants, South Carolina Electric & Gas Company, ("SCE&G") and Dominion Energy with conditions inadequate to protect the public interest. FOE and Sierra Club urge the Commission to reconsider said Order, to correct the errors therein as set forth below, and to reject said Joint Application, and provide such other and further relief as is necessary to protect ratepayers and the public interest.

In support of this petition for rehearing or reconsideration of Order No. 2018-804 FoE and Sierra Club would respectfully show that:

1. The Commission erred in approving the Joint Application pursuant to the Baseload Review Act, ("BLRA"), S.C. Code Ann. Sections 58-33-210, et seq., which Act, on its face and as applied in this Order, takes money from ratepayers and gives it to investors of a private company for a private use for a utility plant which is now abandoned and not "used and useful" in producing utility service to ratepayers, contrary to the public interest and in violation of Article I, Section 13(A) of the South Carolina Constitution. Travelscape, LLC v. SC DOR, 391 S.C 89, 705 S. E.2d (2011) and Dorman v. Dept. of Health & Env'tl. Control, 350 S.C. 159, 565 S.E.2d 119 (Ct. App.

2002);

2. The Commission erred in approving the Joint Application pursuant to the Baseload Review Act, S.C. Code Ann. Sections 58-33-210, et seq., where SCE&G lost the benefit of the BLRA bargain when it ceased construction of the nuclear project “within the parameters” of the approved Commission construction and capital cost order, as required by S.C. Code Ann. Section 58-33-275(A). Such construction “within the parameters” clearly ended upon abandonment on and after July 17, 2017; but substantial evidence in the record supports findings that long before that final date SCE&G was constructing the plant under a completion schedule and capital cost well beyond the parameters of the prevailing Commission order contrary to the requirements of the BLRA. ORS has pointed to undisclosed SCE&G internal EAC or Estimate at Completion assessments and the once secret Bechtel schedule assessment as information fraudulently withheld from ORS and the Commission reflecting such out-of-compliance status for the project’s construction;

3. The Commission erred in approving the Joint Application and disallowing abandoned nuclear plant costs incurred after March 12, 2015, without finding that such costs were imprudently incurred by SCE&G, based on the evidence on the whole record that SCE&G failed to disclose, withheld and mislead the Office of Regulatory Staff (“ORS”) and the Commission regarding material facts bearing on the capital costs and construction schedule to complete the nuclear project, contrary to S.C. Code Ann. Section 58-33-280(K);

4. The Commission erred in approving the Joint Application and allowing recovery of abandoned nuclear plant costs incurred before March 12, 2015, where

SCE&G fraudulently lied, misled and withheld material information regarding the prudence of the nuclear project from ORS and the Commission, conduct constituting imprudence within the meaning of the amended BLRA, S.C. Code Section 58-33-220. Act 258 (2018).

5. The Commission erred in approving the Joint Application and allowing recovery of abandoned nuclear plant costs where SCE&G has failed to carry its burden of proof by a preponderance of the evidence that it was prudent to delay abandonment of the nuclear project until July 31, 2017, instead of ten year earlier, at the project's inception "considering the information available to the utility at the time that the utility could have acted to avoid or minimize the costs." S.C Code Section 58-33-280(K). ORS, AARP's witness Rubin and Friends of the Earth and Sierra Club's witness Cooper each refute SCE&G's claim that delaying abandonment until July 2017 was prudent. ORS and AARP target different trigger dates earlier than 2017: 2015 and 2014 respectively. Dr. Cooper, reprises his 2012 analysis that abandonment was prudent at that time; thoroughly undermines SCE&G's repeatedly erroneous prudence analyses by Dr. Lynch; and demonstrates that abandonment of the project at the outset based on the information available at that time was the only prudent course.

6. The Commission erred in approving the Joint Application and failing to require the refund of all revised rates collected by SCE&G from ratepayers in connection with the abandoned nuclear project where the costs associated with the nuclear project were imprudently incurred contrary to the requirements of the BLRA, S.C Code Section 58-33-280(K).

7. The Commission erred in approving the Joint Application and the proposed

Dominion Energy merger and acquisition of SCE&G without assuring that the merger is adequately conditioned to protect the public interest and to protect ratepayers from the imposition of unjust and unreasonable rates. Such merger conditions must assure protection of ratepayers from unjust, unreasonable and abusive affiliate transactions by Dominion and SCE&G, including, but not limited to rates associated with transactions involving the extension of the Atlantic Coast Pipeline into South Carolina without prior approval of the Commission after notice and an opportunity to be heard in a public proceeding. Such merger conditions must also include adequate protections for low income ratepayers from unjust and unreasonable rates; measures to assure effective energy efficiency programs and policies which allow ratepayers to reduce wasteful energy consumption and reduce electric and gas bills; and conditions which assure access to expanded renewable energy resources, including solar and wind energy at competitive rates, terms and conditions. To the extent the Commission allows the recovery of any abandoned nuclear project costs, the Commission should require the utility to explicitly identify that portion of the customer rate on the customer bill as a separate charge labeled "New Nuclear Cost Recovery Charge," or "Abandoned Nuclear Cost Recovery Charge."

WHEREFORE: for the foregoing reasons, Friends of the Earth and Sierra Club on behalf of their members who will be adversely affected by the approval of the subject Joint Application, hereby urge the Commission to reconsider said Order, to correct the errors therein as set forth above, and to reject said Joint Application.



Robert Guild
314 Pall Mall
Columbia, South Carolina 29201
(803) 252 1419
ATTORNEY FOR PETITIONERS
FRIENDS OF THE EARTH AND SIERRA CLUB

December 24, 2018